

**State of Indiana
Sentencing Policy Study Committee**

DRAFT

MINUTES

Introduction:

The second meeting of the 2006 Sentencing Policy Study Committee was held on Thursday, September 18th in room 431 of the Indiana State House in Indianapolis, Indiana. The meeting convened at 1:00 p.m.

Attendance:

A. Committee Members in Attendance:

- Representative Ralph Ayres, Chair
- Representative Ralph Foley
- Representative William Crawford
- Representative Linda Lawson
- Senator Richard Bray
- Honorable Richard Good (for the Chief Justice)
- Steve Johnson
- Honorable James Humphrey,
- Larry Landis
- J. David Donahue
- R. Todd McCormack
- Sheila Hudson
- David Stewart (for Michael Cunegin)

B. Committee Members Not In Attendance:

- Senator Long, Senator Howard, Senator Anita Bowser, Honorable Frances Gull, Honorable Roger Duvall, Honorable Lynn Murray, Dr. Steven Ross

C. Staff and Consultants:

- Andrew Hedges, Legislative Services Agency
- KC Norwalk, Legislative Services Agency
- James M. Hmurovich, Consultant

D. Discussion Topics:

1) Adam Walsh Legislation and Its Impact on Indiana:

Steve Johnson, the Executive Director of the Prosecuting Attorneys Council and a Member of the Committee, provide a selected in-depth review of the Adam Walsh legislation, as it relates to the Sex Offender Registry, the three tier sex offender classification system and registry reporting requirements. Highlights of the presentation included Mr. Johnson's analysis of the bill that:

- The federal legislation provides an opportunity for Indiana to legislate more judicial discretion when addressing the issue of sexual misconduct of a minor and the registry, if that is the public will;
- Illustrates various differences between current Indiana law and the federal legislation in the areas of a) the length of time for which a sex offender must register and how often, b) residency and registry requirements, c) how quickly a sex offender must register upon conviction and/or release from incarceration, d) information required in the registration process as well as the information that is to be contained on the registry, and e) a process in which to correct an inaccuracy in the registry;
- Identified penalties for non-compliance; and,
- Identified funding opportunities for Indiana in various areas, including DNA analysis.

The Chair requested that Mr. Johnson work with members Bray and Landis to develop proposed legislation that could be discussed at the 3rd meeting of the Committee that identifies specific language Indiana should consider in order to be compliant with the federal legislation, improve public safety outcomes and access the greatest degree of funding to meet the intent of the act.

Public testimony was received from Mr. Charles Goodman who specifically asked the Committee Members to consider the funding and penalty provisions, the civil commitment process option and the difference between risk assessment and risk classification processes.

2) Current Offender Treatment and Classification:

Dr. Bill Elliott, the Director of Mental Health Services for the Indiana Department of Correction provided testimony about current assessment and treatment processes used by the Department as well as the treatment provided to sex offenders. He stated that the Department's use of a process to accomplish this allows for the correct allocation of valuable resources, as well as establishes the intensity of the treatment based upon classification of the offender.

The Static 99 instrument is used to assess adult offenders, while a separate tool is used to assess juvenile offenders. He stated that there are three classifications of sex offenders:

- a) High risk, who received 160-200 hours of treatment;
- b) Medium risk, who receive 120-160 hours of treatment; and,
- c) Low risk, who receive 60-100 hours of treatment

Legislation that was effective 7-0-06 has had a significant impact on sex offender treatment. Now, every sex offender is required to receive treatment; it is not voluntary. Because "denial" is such a significant issue in treating a sex offender, this provides a platform to begin the treatment process. The statute also allows for loss of credit time for refusal to enter treatment. Currently approximately 800 offenders have been offered treatment and only 7 have refused.

The sex offenders are offered group (peer confrontation counseling), individual treatment, (most often for low functioning offenders). A psycho-educational model is used. Currently, adult male sex offenders are assigned to Miami Correctional Facility or the Plainfield Correctional Facility, the Indiana Women's Prison for female adult offenders and the Pendleton Juvenile Facility for male juveniles and the Indianapolis Correctional Facility for juvenile females.

Dr. Elliott provided a "return rate" for sex offenders in Indiana of approximately 10.8% for the period of 1999-2006, but clearly stated that there are many factors that compound why that rate may not be a true picture of reality. These variables include the methodology and definitions that are used to calculate a "return rate" versus a "recidivism rate" and the fact that the treatment only became mandatory several months ago, thereby skewing a rate that is more favorable when offenders voluntarily seek and receive treatment.

In the next three years 800 sex offenders will be released, while 300 are in treatment now. A plan is in place to offer the treatment to all offenders being released. Dr. Elliott stated that 25% of the offenders are "low risk

of offending again, while 40% are at medium risk and 35% are at high risk. Representative Crawford asked for an “off-line” response on the educational and experience requirements of the various behavioral staff working with sex offenders.

3) Sex Offender Residency Restrictions and GPS Tracking:

Randy Focken, the Director of Parole Services for the Indiana Department of Correction provided an overview of the manner in which an offender is supervised within a community setting. He identified three major factors to the success transition of an offender into the community:

- Housing
- Employment
- Transportation

Of special note was the issue of housing. He provided testimony that there are at least two significant reasons why an offender has difficulty in obtaining housing: a) often the victim of the offense is a person who lives in the home in which the offender would have wanted to return, and b) the statutory restrictions on the geographic locations that are prohibit residency by a sex offender, i.e., schools, daycare homes and centers.

Currently there are 624 sex offenders under parole supervision, and 226 are classified as high risk. He stated that the Division works conscientiously to provide all victim and law enforcement notifications as required by law. He also identified the advantages and challenges associated with GPS tracking of sex offenders. These includes a) cost to operation, b) fees that would be assessed to an offender, geographic and topography concerns that make GPS tracking difficult and the increasing caseload that is projected. Sex offenders currently pay approximately \$2500 per year for sex offender treatment and polygraphs received while on parole supervision.

4) Impact of Sealing and Expunging of Criminal Records:

Testimony was received by Olgen Williams, Executive Director of the Chrisamore House, Maxine Bryant from the U.S. District Attorney’s Office and Dr. Shelvy Keglur of the Indiana Minority Health Professional Association. They presented testimony to the Committee that identified the difficulty in obtaining employment for certain offenders who especially have spent a significant time leading a law abiding life after their felony conviction. The testimony focused on the following issues:

- This is not a request for amnesty, but for forgiveness for a past violation of law;
- Expungement or in mist cases, sealing of records should be driven by a statute that presents what offenses and under what circumstances the offense could be expunged or sealed;
- That there is no intention to shield an offender from an employer's "need to know" to ensure the employer and all employees are safe, e.g., forgery or embezzlement if a person is requesting a financial officer position, a sex offense for a child-related position).
- That the only manner in which this process could be successful is a complete collaboration between government, employers, community groups and faith-based organization; and,
- A re-look at Indiana's relatively stringent criminal record expungement laws.

Representative Crawford made the tie between employment of ex-offenders and the relationship to economic development as well as echoed the comments from various presenters and Committee Members that there is a moral reason to consider this change. It was suggested that HB 1408 from a prior legislative session could be a "***framework***" in which to introduce this issue to the general assembly next year.

There was a very good discussion of the "public right to know", the importance of an ex-offender obtaining employment in order to successfully transition to the community and issues of public safety.

Public testimony was received from Dave Rozzell, a Special Assistant to the Director of Public Safety for the City of Indianapolis who identified some current strategies being implemented by the city to overcome these issues, in partnership with all segments of the community.

E. Adjournment:

The Chair adjourned the meeting at 4:15 p.m. stating that the Methamphetamine Offender Registry will be placed on the 3rd meeting's agenda for discussion.